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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,343

02/25/2004

Michael Tepoe Nash

M. NASH

3834

7590

10/05/2005

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EXAMINER

RUSSELL, CHRISTINA MARIE

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/786,343

Applicant(s)

NASH, MICHAEL TEPOE

Examiner

Christina Russell

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the US patent application publication to Sitrick et al. (US 2003/0110926).

4. Sitrick et al. teaches of a stringed musical instrument that inputs musical data into an electronic visualization system which provides the means for storing, editing, deleting and displaying the users inputted data, whereby enabling the user to

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personalize said instrument's sound, and the compositions it is used to play, to the user's particular needs (see page 1, paragraphs [0010] to [0012], page 3, paragraph [0046], page 4, paragraphs [0051] to [0053], page 9, paragraph [0087], page 16, end of paragraph [0157] and beginning of [0158], and page 22, paragraphs [0200] and [0201]).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick et al. in view of the US patent to Wittman (5,637,820).

7. As for claims 2 and 3, Sitrick teaches all the above claimed elements, except for providing a description of said stringed musical instrument or teaching of this display program located within said instrument. Wittman does teach of a stringed instrument, comprising a plurality of strings, a fingerboard and a body, which has a display device located within said body, or housing (see Figure 1, column 3, lines 133-29, line 51 – column 4, line 42, column 6, lines 15-22 and 52-62, column 7, line 46 – column 8, line 6, and column 8, line 58 – column 9, line 3). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to condense the storage, editing, and image system of Sitrick into a small enough system to fit into the body of the string instrument

of Wittman. Wittman already teaches of the ability to connect an electronic image device into the body of a stringed instrument and Sitrick teaches the ability to integrate all the parts, such as the processor and memory of the system, into one encased device, the ability to give the image device a touch pad screen for easy access to programs, and the ability to condense the system and place it in a small space, such as the back of a chair (see page 1 and 2, paragraph [0012], page 3, paragraph [0045] and page 6, paragraph [0066]). Therefore, it would have been obvious to integrate these two devices since they are both capable of taking on the properties of the other.

8. As for claim 4, Sitrick and Wittman teach all the above claimed elements, including the teachings of Sitrick describing the coupling of the display device with the storage unit and processor. Sitrick also teaches of the ability to select a particular program from a displayed menu and then have that selected information from the given program read-out from the storage unit (see page 12, paragraph [0106]). Again, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to remove the tuning display device from the stringed instrument of Wittman and replace that display with the condensed, integrated system of Sitrick, that has the capabilities of connecting to a stringed instrument and accepting input from said instrument.

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**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent application publication to Suzuki et al. (US 2004/0098404).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR  
09/22/2005



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